

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

529301  
PCT/IB2003/005612



Applicant's or agent's file reference JL/SG S.01-0890	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/IB2003/005612	International filing date ( <i>day/month/year</i> ) 24 September 2003 (24.09.2003)	Priority date ( <i>day/month/year</i> ) 25 September 2002 (25.09.2002)
International Patent Classification (IPC) or national classification and IPC C01G 9/02, 9/00, C09C 1/04		
Applicant SOCIETE INDUSTRIELLE LIEGEOISE DES OXYDES SA		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of _____ sheets.</p>
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>

Date of submission of the demand 02 April 2004 (02.04.2004)	Date of completion of this report 24 January 2005 (24.01.2005)
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# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/IB2003/005612

## I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

☒ the international application as originally filed.

☒ the description, pages 1-14, as originally filed,  
pages \_\_\_\_\_, filed with the demand,  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

☒ the claims, Nos. 1-20, as originally filed,  
Nos. \_\_\_\_\_, as amended under Article 19,  
Nos. \_\_\_\_\_, filed with the demand,  
Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

☒ the drawings, sheets/fig 1-7, as originally filed,  
sheets/fig \_\_\_\_\_, filed with the demand,  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

2. The amendments have resulted in the cancellation of:

☐ the description, pages \_\_\_\_\_

☐ the claims, Nos. \_\_\_\_\_

☐ the drawings, sheets/fig \_\_\_\_\_

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

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## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	2-20	YES
	Claims	1	NO
Inventive step (IS)	Claims		YES
	Claims	1-20	NO
Industrial applicability (IA)	Claims		YES
	Claims	1-20	NO

## 2. Citations and explanations

Reference is made to the following document:

D1: FR-A-2 641 268

## 1. Clarity (PCT Article 6).

1.1 Claims 1 and 2 of the present application relate to an oxygen-containing zinc product defined, *inter alia*, by means of the "Flodex index" parameter. In the present context, the use of this parameter is considered to lead to a lack of clarity within the meaning of PCT Article 6. The use of this parameter renders a meaningful comparison with the prior art impossible.

1.2 The same argument applies, *mutatis mutandis*, to the use of the "compressibility index" parameter in claim 3.

## 2. Novelty (PCT Article 33(2)).

2.1 The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claim 1 does not comply with the criterion

of novelty as defined by PCT Article 33(2).

D1 describes an oxygen-containing zinc product obtained by a method including aqueous-phase precipitation followed by spray drying in a hot gas, wherein the temperature on entry to the spray dryer is between 450 °C and 900 °C (see D1, claims 1 and 4; page 5, line 6 to page 7, line 10; page 8, line 1 to page 10, line 23).

In view of point 1 above, the Flodex index of the product obtained according to the method of D1 will also be assumed to be less than 15.

3. Dependent claims 2 to 10 and 18 to 20 contain no feature which, when combined with the features of any one of the claims to which they refer, defines subject matter that complies with the PCT requirements of inventive step.
- 4.1 The subject matter of claim 11 differs from the known method (see D1, claims 14 and 15) in that the aqueous suspension of the oxygen-containing zinc compound is injected into an atomizing chamber by means of a nozzle.
- 4.2 The subject matter of claim 11 is therefore novel within the meaning of PCT Article 33(2).
- 4.3 The applicant indicates that the use of a nozzle in the method according to the present invention has the advantage of achieving a narrow particle size distribution, which is not the case for a rotary atomizer disc.

4.4 In the absence of supporting evidence, the problem that the present invention is intended to solve is deemed to be that of providing an alternative method for producing microspheroids of an oxygen-containing zinc compound.

4.5 The solution proposed in claim 11 is not considered inventive (PCT Article 33(3)) for the following reasons:

the feature "the use of a nozzle" is merely one of several obvious options that a person skilled in the art seeking to solve the stated problem might select, depending on each particular case, and without an inventive step being involved.

4.6 Dependent claims 12 to 17 contain no feature which, when combined with the features of any one of the claims to which they refer, defines subject matter that complies with the PCT requirements of inventive step.